

The present Maryland Constitution covers the freedom of religion in four sections, 36, 37, 38 and 39. However, the effect of these sections has been seriously affected by several recent decisions of the Supreme Court of the Maryland Court of Appeals so that there is little or no meaning to sections 36 and 37 when it comes to the matters involving holding of office and questions of qualification as jurors.

Now, I will not go into those provisions of the Maryland Declaration of Rights, but the only effect left in the law with respect to these four sections that is important to us is the language "nor ought any person be compelled to frequent, maintain or contribute, unless on contract, to maintain any place of worship or ministry."

Ladies and gentlemen, there are two aspects to this freedom. One is that there shall be no law prohibiting the free exercise of religion, and this has been clearly and carefully stated in many of these cases. But the second part, the one that I think may trouble many people, is the phrase "no law shall be made respecting an establishment of religion." This is the clause that relates to the separation of church and state. This is an area that can evoke strong emotional debate.

The Committee was unanimously in favor of the complete separation of church and state, and thought that it should be stated as clearly and unequivocally as possible.

We considered the language of the commission draft and found that it was adequate, but we felt that the language of the First Amendment decidedly stated this concept of separation of church and state as effectively as it could be stated.

What does the First Amendment mean? I should like to read to you a very famous and brief excerpt from a Supreme Court case called *Everson v. Board of County Commissioners*. This is the Court's statement with respect to what the First Amendment means:

"The establishment of religion clause of the First Amendment means at least this: Neither a state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious

beliefs or disbeliefs, for church attendance or nonattendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the federal government can openly or secretly participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect a wall of separation between church and state." This establishes what the First Amendment means.

Now, what does it mean in Maryland? It means exactly that. We have a very famous case which I am sure you have heard of, the Horace Mann case decided in June of 1966, respecting this very matter. That case involved four separate statutes of the Maryland legislature granting a total of two and a half million dollars to four colleges, \$500,000 to Hood College to build a dormitory and classroom building, \$500,000 to Western Maryland College for a science wing and a dining hall, \$750,000 to Notre Dame College for a science building, and \$750,000 to St. Joseph College in Emmitsburg for a science building.

Action was brought to have these grants invalidated on the basis that they violated both the Maryland Constitution and the First Amendment. The Court held that they violated the First Amendment and were therefore unconstitutional.

THE CHAIRMAN: Delegate Kiefer, do you have any idea how much longer your principal presentation would take?

DELEGATE KIEFER: If you will give me about five or ten minutes at the most.

THE CHAIRMAN: Very well.

DELEGATE KIEFER: The Court held that the First Amendment was applicable, and that these grants were unconstitutional. It went on to hold that they would not have been unconstitutional under the Maryland Declaration of Rights. In so stating the Court expressed what I have already read to you from the *Everson* case, only even stronger:

"A state cannot contribute tax-raised funds to the support of an institution which teaches the tenets or faith of any church."

Now, we have heard, ladies and gentlemen, testimony here on this subject. As a matter of fact, we had to hold it in this